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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,776	12/03/2004	Josef Laumen	071308.1105	5309

86528   7590   09/01/2010
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EXAMINER
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ART UNIT	PAPER NUMBER
2611	

NOTIFICATION DATE	DELIVERY MODE
09/01/2010	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/516,776
Filing Date: December 03, 2004
Appellant(s): LAUMEN ET AL.

Truman H.Fenton
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed June 16, 2010 appealing from the Office

action mailed November 25, 2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application: Claims 12 – 24.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are

provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in

the Appendix to the appellant's brief.

(8) Evidence Relied Upon

WO 2002/043414	Mostafa	05-2002
US 6,061,696	Lee et al	08-2005

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.,* 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.

     2.   Ascertaining the differences between the prior art and the claims at issue.

     3.   Resolving the level of ordinary skill in the pertinent art.

     4.   Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 12 – 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mostafa (WO 2002/043414) in view of Lee et al (US 6,061,696).

Re claim 12, Mostafa discloses of a method for transmitting data in a communication system (Page 1, Lines 5 - 7) wherein the data comprises individually linked and different data elements (*audio or video or a combination of different streams*) that are coded to standards (Page 4, Lines 6 – 13), the method comprising: performing at least one of a data type and a data format conversion on at least one of the data elements (*audio or video*) in accordance with a profile of a receiver of the data (Page 7, Lines 18 - 28). Mostafa teaches of adapting the network entity to translate the media components between at least two different formats (Page 8, Lines 26 – 31 to Page 9,

Lines 1 - 2, Page 20, Lines 5 – 25). However, Mostafa does not specifically teach of updating a link, after the conversion to maintain a validity of the link in the data between the different data elements.

Lee teaches of updating a link, after format conversion to maintain a validity of the link in the data between the different data elements (Col 2, Lines 45 – 67 to Col 3, Lines 1 – 20 and Figs.8 and 12).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have updated a link after a format conversion to maintain validity of the link so that the viewer would successfully view the contents of the video file.

Re claim 13, Mostafa discloses of a method for transmitting data in a communication system as claimed in claim 12, wherein the conversion is performed at a provider of the receiver (Page 7, Line 30 - Page 8, Line 5, "*Advantageously, the media content is translated if necessary into an appropriate format, so that typically no regeneration or conversion of the media content is required at the sending entity. Thus, retransmission of the content from the sending entity can also be avoided*").

Re claim 14, Mostafa and Lee teach all the limitations of claim 12 as well as Lee further comprising verifying the link in the data between different data elements (Figs.8 and 12).

Re claim 15, Mostafa discloses of a method for transmitting data in a communication system as claimed in claim 12, further comprising preparing the data for transmission as a plurality of data packets containing a header to transport organization information and a body to transmit appropriate payload information as the data elements (Page 18, Line 22 - Page 19, Line 3, "*Since the media content contained in a particular multimedia message is stored in MMS server B and the storing operation is performed via MMS relay B, MMS relay B has access to information describing the media content which, for example, was encapsulated with the multimedia message sent from MMS user agent A. MMS relay B is also aware of the properties and behavior of MMSE B as, according to currently agreed recommendations covering the implementation of the multimedia messaging service in 3rd generation networks, MMS relay B is considered to be the control point for MMSE B. This also means that MMS relay B has access to information describing the configuration and capabilities of MMS user Agent B, which, as described in connection with Figure 1, is stored in a database linked to the relay. MMS relay B is further aware of its own capabilities to convert between different media types and/or formats*").

Re claim 16, Mostafa discloses of a method for transmitting data in a communication system as claimed in claim 12, wherein the data is transmitted as a multimedia message in a Multimedia Messaging Service (Page 16, Lines 29 - 30, "*when initiating the communication of a multimedia message to MMS (multimedia messaging*

*service) User agent B, MMS user agent A first selects the media content to be
transmitted").*

Re claim 17, Mostafa discloses of a method for transmitting data in a
communication system as claimed in claim 16, wherein the data is transmitted on a
WAP-enabled mobile phone (Page 2, Lines 12 - 22, "*The MMS relay is also shown to
be linked with two mobile telecommunication networks. The different telecommunication
networks may, for example, have different operators, different geographical locations or
coverage areas and/or differ in terms of their technical characteristics. For example,
they may belong to different technical generations such as GSM and UMTS (WAP-
capable mobile phone)*").

Re claims 18 - 23, which claim the same subject matter as recited in claims 12-
17. Therefore, claims 18 - 23 has been analyzed and rejected with respect to claims 12-
17.

Re claim 24, Mostafa discloses of a computer program product having a
computer-readable storage medium on which a program is stored which, upon loading
on in a memory of a computer, enables the computer, as part of a data transmission in
a communication system, to receive multimedia messaging service (MMS) data (Page
1, Lines 5 - 7) from a subscriber of the communication system (Page 13, Lines 25 –
Page 15, Line 9), wherein the MMS data comprises individually linked and different data

elements that are coded to different standards, to perform at least one of a data type and a data format conversion on at least one of the data elements in accordance with a profile of a further subscriber of the communication system to receive the data. Mostafa teaches of adapting the network entity to translate the media components between at least two different formats (Page 13, Line 25 - Page15, Line 9). However, Mostafa does not specifically teach of updating a link between the different data elements, including the at least one converted data element within the MMS data, after the conversion, to maintain a validity of the link in the data between different data elements prior to the data being sent to the further subscriber.

Lee teaches of updating a link, after format conversion to maintain a validity of the link in the data between the different data elements (Col 2, Lines 45 – 67 to Col 3, Lines 1 – 20 and Figs.8 and 12).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have updated a link after a format conversion to maintain validity of the link so that the viewer would successfully view the contents of the video file.

   (10) Response to Argument

A. Argument:

   Appelants submit that Lee does not teach or suggest automatically updating a
preexisting link either in the data or between different data elements [toH maintain a
validity of the preexisting link. Lee describes a website editing application that allows a
user to edit a data file, e.g., a native image file such as RGB, in one format and
automatically propagate any changes into a web compatible format, e.g., JPG, for
immediate viewing within a web page editor or browser. Lee provides a user with an
interface wherein a user <u>can manually</u> select an original file that will be automatically
converted to a local file every time <u>the user modifies the original file</u>. Thus, Lee is not at
all analogous to or even relevant to the problem addressed by the present invention,
which addresses automatic conversion of data contained in MMS messages while in
transit from a sender to a recipient. Thus, even if the Examiner's analogy were
appropriate--and it is not--Lee would at most teach converting the file format and
renaming the file, but does not disclose the link. Moreover, Lee does not disclose
automatically updating a preexisting link after a media file conversion.

A. Response

Examiner submits that Mostafa teaches all the limitations of the independent claims except of specifically mentioning or suggesting updating a link after MMS data format conversion. As discussed in the rejection, Lee teaches of automatically converting data formats (for example from RGB to JPG) and automatically updating the link after the data conversion by saving the converted data format to a "Local" directory. For example and as shown in Figure 8, the link is updated by */usr/people/rdlee/**sniff.rgb*** (before data conversion) to */usr/people/rdlee/**sniff.jpg*** (after data conversion). One skilled in the art would know that every media file or data element has a link attached to it. Therefore, as shown in Lee, by automatically converting the data file format from RGB to JPG, it is required to automatically update the link by saving it to the local directory in order for the software application (COSMO Create) to read or recognize the converted file. Furthermore, Lee provides a user with an interface wherein a user can manually select an original file that will be automatically converted to a local file every time the user modifies the original file as argued by the Appelant. However, Lee also discloses that the user may rely on the default parameters or may specify custom conversion parameters for automatic operation of the software application. Following conversion, a converted format version is automatically stored at the local file pathname (Col 8, Lines 1 – 19 and Col 6, Lines 59 - 61).

B. <u>Argument:</u>

Appelants submit that, even if the software application disclosed in Lee could be viewed as disclosing the claimed preexisting link--which it does not--<u>the application does not automatically update a preexisting link, but only updates the contents of the local file.</u> The only link Lee discloses is a Published URL in the web page being edited, but that link is (1) not the same as the claimed link, and is (2) a static element modified only by a user and never automatically updated. Thus, Lee does not teach or suggest automatically updating a preexisting link either in the data or between different data elements maintain a validity of the preexisting link.

B. <u>Response:</u>

Examiner submits that Lee is directed to a software tool that updates the contents of the local file and saves it on the local file directory by updating the preexisting link of the original file directory (Fig.8). As disclosed by Lee, the software is capable of automatically performing its operation of data conversion (*converting the data format and changing the link*) by default parameters where the user can manually insert or modify the parameters at any time. Furthermore, one skilled in the art would know that if the address or the link of the converted data format was not to be updated, the software of Lee would become non-functional and would not operate.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Aristocratis Fotakis/

Examiner, Art Unit 2611

Conferees:

/CHIEH M FAN/

Supervisory Patent Examiner, Art Unit 2611

/Shuwang Liu/

Supervisory Patent Examiner, Art Unit 2611